

### **REMARKS**

Claims 1-70 and 75-80 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-80 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Publ. No.2002/0037750 ("Hussain"). This rejection is respectfully traversed.

Applicant has amended Claim 19, to include the limitations of Independent Claim 1. Therefore, Applicant has not added any new matter for the Examiner to consider. As such, Applicant respectfully submits that Hussain does not teach or anticipate the limitations found in Independent Claim 19 and respectfully requests the withdrawal of the rejection with respect to Claim 19 and the claims depending therefrom. Specifically, Hussain does not teach "a delivery module operable to select a delivery method for a notification to the user from a plurality of predetermined delivery methods, where the delivery method is selected based on the activity information." Nor does Hussain teach a delivery module "operable to determine whether the delivery method is available that satisfies predetermined conditions relating to convenience, courtesy, timeliness, naturalness, and safety." Finally, Hussain does not teach "an output operable to communicate the notification to the user in accordance with the selected delivery method."

First, it is respectfully submitted that Hussain does not teach "a delivery module operable to select a delivery method for a notification to the user from a plurality of

predetermined delivery methods, where the delivery method is selected based on the activity information.” Hussain relates generally to providing information relating to a user’s status to a content provider. Accordingly, Hussain primarily focuses on the retrieval of the user’s status and the communication of the user’s status to a content provider via a B2B (Business-to-Business) module. Applicant respectfully submits that many of the modules contained in the laundry list of paragraph 76, are not described or otherwise taught so as to be considered anticipatory of Independent Claim 19. For example, Hussain teaches a “Realtime Delivery Method” but never discloses what the Realtime Delivery Method is or does. Rather, Hussain teaches that the RDM interfaces with the DCM (Data Collection Module) and the BAM (Behavior Analysis Module).

Hussain, however, is not concerned with the method of delivery of a notification to a user. Hussain, although teaching a realtime delivery module, does not teach a delivery module that must select a method to deliver a notification. Rather, Hussain assumes that the ME (Mobile Equipment) sending the status of the user to the B2B is the same ME that will receive the content from the content provider. Thus, Applicant respectfully submits that Hussain cannot be read to teach “a delivery module operable to select a delivery method for a notification to the user from a plurality of predetermined delivery methods, where the delivery method is selected based on the activity information.” Because Hussain does not teach the claimed delivery module, wherein the delivery module selects a delivery method from a plurality of predetermined delivery methods, Hussain cannot be said to anticipate Independent Claim 19.

Applicant further submits that Hussain does not teach a delivery module “operable to determine whether the delivery method is available that satisfies

predetermined conditions relating to convenience, courtesy, timeliness, naturalness, and safety.” As discussed above, Hussain does not teach selecting methods of delivering a notification to a device of a user. Hussain’s primary focus is the transmitting of information upstream to a content provider in order to efficiently send information to users. Paragraph 0052 illustrates this point: “The B2B engine, as described herein, communicates with the respective telecom operators and the associated network elements to get realtime information about their subscribers, processes the subscriber information and supplies the information to the content providers in accordance with the certain subscribed events previously requested by those content providers.” Throughout the cited reference, reference is made to providing content providers with information relating to the user. Thus, Applicant respectfully submits that as Hussain does not contemplate delivery methods, Hussain could never be read to teach determining whether a “delivery method is available that satisfies predetermined conditions relating to convenience, courtesy, timeliness, naturalness, and safety.” It is further submitted that the “predetermined time interval” and “requisite conditions” cited by the Examiner do not teach the above-discussed claim limitation. For example, the SIM toolkit transmits, with a determined interval, short messages (SMS) messages...containing the subscriber status and the mobile station ISDN.” This is done to retrieve user status and not to determine a method of delivery that “satisfies predetermined conditions relating to convenience, courtesy, timeliness, naturalness, and safety.” Along the same line, “the B2B engine determines realtime information about the mobile subscriber...by communicating with the network and the respective users to determine a variety of subscriber information: subscriber rules for

application and any requisite conditions, subscriber preferences, subscriber status, and any intelligence factor necessary to satisfy the needs of the mobile subscriber. This subscriber information is gathered for each user and supplied to the content providers, which provide the information to the mobile subscriber." (§[0054]) (Emphasis added). Thus, Hussain makes clear that input received by the B2B server is not used to determine the availability of a delivery method, but rather the input is collected for the purposes of communication to a content provider.

Additionally, Hussain does not teach an "output operable to communicate a notification to the user in accordance with the selected delivery method." As discussed previously, Hussain does not teach selecting delivery methods. Thus, it would be impossible to read from Hussain an output operable to communicate a notification based on the selected delivery method. Moreover, the Examiner states that this limitation is taught by a Service Execution Module, namely "the 'execution' module would output in accordance with the manner of delivery." Applicant respectfully submits that nowhere in Hussain is it taught that the SEM interfaces with the RDM (Realtime Delivery Module). Further, Hussain explicitly states that "the Service Execution Module executes the service used, and is internally interfaced with the SDE and the BDSM." How the Examiner can stretch an unsupported SEM to include outputting in accordance with the manner of delivery remains unclear to Applicant. Thus, Applicant respectfully submits that Independent Claim 19 and the claims depending therefrom patentably distinguish over the Hussain reference.

With respect to Independent Claim 1 and the claims depending therefrom, Applicant respectfully submits that Hussain does not teach the limitations contained in

Claim 1. Specifically, Hussain does not teach “a delivery module operable to select a delivery method for a notification to the user from a plurality of predetermined delivery methods, where the delivery method is selected based on the activity information.” Nor does Hussain teach “an output operable to communicate the notification to the user in accordance with the selected delivery method.”

As discussed above, Hussain does not teach “a delivery module operable to select a delivery method for a notification to the user from a plurality of predetermined delivery methods, where the delivery method is selected based on the activity information.” As discussed, Hussain primarily teaches the communication of a user's status to a B2B for the purpose of communicating said status to a content provider. Thus, the method of delivery, or the selecting thereof, is not contemplated by the cited reference. Further, it is submitted that the RDM (Realtime Delivery Module) taught by Hussain contains no structure or function, such that the disclosure of an RDM can be read teach selection of a delivery method based on the activity information of a user. Rather, the only reference to the RDM is that it interfaces with the Data Collection Module and the Behavior Analysis Module, which checks subscription information of a user and performs the analysis of the realtime data. (see ¶[0079]). It does not follow that the RDM chooses a delivery method based on the user's status. Thus, Hussain does not teach “a delivery module operable to select a delivery method for a notification to the user from a plurality of predetermined delivery methods, where the delivery method is selected based on the activity information.”

Applicant further submits that Hussain does not teach an “output operable to communicate a notification to the user in accordance with the selected delivery

method." As has been previously discussed, Hussain does not teach selecting a delivery method. Thus, Hussain can not be read to teach an output operable to communicate a notification to the user in accordance with the selected delivery method, because Hussain does not teach selecting a delivery method. Furthermore, it is respectfully submitted, that for the reason provided above, Hussain's disclosure of a Service Execution Module cannot be read as to anticipate or teach the above discussed limitation. Thus, Applicant respectfully submits that Claim 1 and the Claims depending therefrom patentably distinguish over the cited reference and respectfully requests the withdrawal of the §102 rejection.

For the foregoing reasons, Applicant respectfully submits that the teachings of Hussain do not anticipate Claims 1 and 19, or the claims depending therefrom. It is further submitted that Claims 36 and 76, and the claims depending therefrom, teach similar subject-matter and include similar limitations to those discussed above. Accordingly, Applicant submits that Claims 36 and 76 patentably distinguish over the Hussain reference and Applicant respectfully requests that the Examiner withdraw the §102 rejection with respect to these claims.

#### **REJECTION UNDER 35 U.S.C. § 101**

Claims 1-80 stand rejected under 35 U.S.C. § 101 for failing to recite patentable subject matter. Applicant has amended the claims to more clearly define the patentable subject matter. Thus, this rejection is respectfully traversed.

As a threshold matter, Applicant respectfully requests that the Examiner enter Applicant's amendments, as the §101 rejection was first entered in the final Office

Action dated October 7, 2008. As such, Applicant has not been afforded an opportunity to amend its claims in response to such rejection. Additionally, Applicant submits that such a rejection could have been entered by the Examiner in previous office actions, but never were, thereby detrimentally affecting Applicant's ability to amend its claims. Further, the proposed amendments are of the variety that could have been foreseen by the Examiner at the time the rejection was issued. Thus, pursuant to 37 C.F.R. 1.116(b)(3), applicant has shown sufficient reason why the amendment is necessary and was not entered earlier. Accordingly, amendment to the claims is proper and Applicant respectfully requests the Examiner to enter such amendments.

Claim 1 has been amended to limit the delivery module so that it is embodied as computer executable instructions on a computer memory, and to limit the delivery of a notification to delivery over an electronic medium to a device proximate to the user. Similar amendments have been made to the remaining independent claims. It is respectfully submitted, that with respect to Claims 1 and 19, the amendments provide a basis for Applicant to overcome the rejection. The claimed delivery requires the input of activity information relating the user. The input of activity information is concrete data which can be used to determine the status of the user. Based on the input activity, the delivery module is configured to select a method of delivery, e.g. with high importance to a cellular phone, with low importance to user's email, or with loud attention grabbers to the user's vehicular console. The delivery module provides a concrete selection, basing the decision to select a delivery method on the received activity information. Finally, the output is configured to actually deliver the notification to the user based on the selected delivery method. Said output provides a concrete and useful result, as a

message is delivered to the user pursuant the most appropriate delivery method. Thus, Applicant has specifically defined a practical application and therefore, respectfully requests that the Examiner withdraw the rejections.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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